

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Health
Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

D.C. ARC, INC. and
SHIRLEY WADE
Respondents

Case No.: C-00-80006

ORDER

Before the Office of Adjudication and Hearings (“Office”) is a request for an evidentiary hearing on the proposed recommendation for termination of the Respondents’ Medicaid Participation Agreement pursuant to notices issued by the Department of Health on December 28, 1999 and December 30, 1999 (“notices”).¹ A hearing was held on February 17, 2000 in which both parties were represented by counsel. Counsel for the Government stated on the record that the Government believes Respondents are in substantial compliance with regard to the alleged deficiencies that gave rise to the notices. The Government further stated on the record that it has withdrawn the proposed recommendation for termination detailed in the notices.

Respondents contend that they are entitled to a hearing to challenge the findings underlying the notices and the process by which such findings were determined. Respondents seek a declaration from this administrative court stating that the Government’s findings were legally or factually defective. In light of the Government’s withdrawal of its notices, the administrative court cannot grant the Respondents the relief they seek because there is no longer a pending case or controversy.

¹ The Office of Adjudication and Hearings has jurisdiction over this matter pursuant to Reorganization Plan No. 4 of 1996, Mayor’s Order No. 97-4, Mayor’s Order 99-68, and Department of Health Organizational Order No. 99-24. The proposed termination notices to the Respondents erroneously directed them to the Department of Consumer and Regulatory Affairs (DCRA) for adjudication. The matter is now properly before the Office of Adjudication and Hearings and the Respondents have stated in the record that they do not contest the transfer from DCRA to the extent the Office is authorized to hear this case.

As the Supreme Court has noted:

In all civil litigation, the judicial decree is not the end but the means. At the end of the rainbow lies not a judgment, but some action (or cessation of action) by the defendant that the judgment produces--the payment of damages, or some specific performance, or the termination of some conduct. Redress is sought through the court, but from the defendant. This is no less true of a declaratory judgment suit than of any other action. The real value of the judicial pronouncement--what makes it a proper judicial resolution of a "case or controversy" rather than an advisory opinion--is in the settling of some dispute which affects the behavior of the defendant towards the plaintiff.

Hewitt v. Helms, 482 U.S. 755, 760 (1987). In this case, there is no declaration that this administrative court can render regarding the Department of Health's findings that can affect the Government's behavior toward the Respondents. The Government's withdrawal of the notices has mooted any need for such a declaration.

Respondents may or may not have legitimate grievances about the findings and processes that led to the now-withdrawn notices, but such grievances must be redressed through policy or political advocacy, not through administrative litigation on a matter that has been rendered moot.

Therefore, upon the Respondents' application for a hearing and the entire record in this case, it is hereby, this _____ day of _____, 2000:

ORDERED, that the Respondents' request for a hearing and declaratory relief is denied as moot, and this matter is dismissed.

/s/ **3-27-00**

Paul Klein
Chief Administrative Law Judge